IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1759 OF 2004

Santosh Eknath Nalawade ...Petitioner.

V/s

The State of Maharashtra
and Anr. ...Respondents.

Mr. P.M. Pradhan for the petitioner.

Mr. A.M. Shringarpure for the respondent - State.

CORAM: V.M.KANADE,J.

DATE: 29th September, 2004

P.C.

1. Heard the learned Counsel appearing on behalf of the petitioner and the learned APP appearing for the respondent - State.

2. Petitioner is seeking transfer of the Criminal Appeal pending in the Court of District and Sessions Judge, Ratnagiri to any other Court.

3. The grievance of the petitioner is that when the matter was posted for hearing on 21/4/2004, his advocate had gone to Sessions Court for conducting Sessions Case No.7 of 2003 at Khed and, therefore, the petitioner - accused filed an application seeking adjournment of the case. Petitioner states that when this application was made the complainant had entered

the witness box and started weeping in the court which was done only with an intention to attract sympathy of the Court and, as a result, the application for adjournment was refused and the Trial Court passed an order that the recording of evidence should proceed without cross examination and the application for time to cross-examine the complainant was rejected and, thereafter, the matter was adjourned to 27/4/2004. On the next date also, application was made for adjournment on the ground that the petitioner wanted to make a transfer application. However, the said application for adjournment was rejected. Under these circumstances, there is an apprehension in the mind of the petitioner that he is not likely to get justice in the said Court.

4. In my view, no sufficient ground has been made out by the petitioner for seeking transfer. The Trial Court has merely rejected the application for adjournment. Petitioner's oral application for cross-examination was rejected on the date on which the petitioner's Counsel was not present. In the result, there is no substance in the application for transfer. Application is rejected. Needless to mention that if the application is made for cross-examination of the complainant, Trial Court

should consider the same sympathetically keeping in view the fact that justice should not only be done but it should be seen to be done.

5. Petition is rejected.

V.M. KANADE, J.